



Town File No. D-04-17  
 Applicant Rachel & Steven Kelley

**DETERMINATION OF APPLICABILITY**  
**ACTON WETLANDS PROTECTION BYLAW**  
**CHAPTER F**

**From the ACTON CONSERVATION COMMISSION**

To Rachel & Steven Kelley same  
 Name of person making request (Name of property owner)

Address 70 Newtown Road, Acton, MA 01720 Address \_\_\_\_\_

This determination is issued and delivered as follows:

\_\_\_\_\_ by hand delivery to applicant or representative on \_\_\_\_\_ (date)  
 \_\_\_\_\_ by certified mail, return receipt requested on 6/18/09 (date)

Pursuant to the authority of the Town of Acton Bylaws, Chapter F, the Acton Conservation Commission has considered your request for a Determination of Applicability and its supporting documentation, and has made the following determination (check whichever is applicable):

Location: Street Address 70 Newtown Road, Acton

Lot Number: Town Atlas Plate E-3, Parcel 82

**This Determination is positive:**

1. ☐ The area described below, which included all/part of the area described in your request, is an Area Subject to Protection Under the Bylaw. Therefore, any removing, filling, dredging or altering of that area requires the filing of a Notice of Intent.
2. ☐ The work described below, which included all/part of the work described in your request, is within an Area Subject to Protection Under the Bylaw and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
3. ☐ The work described below, which included all/part of the work described in your request, is within the Buffer Zone as defined in the regulations, and will alter an Area Subject to Protection Under the Bylaw. Therefore, said work requires the filing of a Notice of Intent.

**This Determination is negative:**

1. ☐ The area described in your request is not an Area Subject to Protection Under the Bylaw.
2. ☒ The work described in your request is within an Area Subject to Protection Under the Bylaw, but will not remove, fill, dredge or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. ☒ The work described in your request is within a Buffer Zone, as defined in the regulations, but will not alter an Area Subject to Protection Under the Bylaw. Therefore, said work does not require the filing of a Notice of Intent subject to the following conditions (if any).
  
4. ☐ The area described in your request is subject to Protection Under the Bylaw, but since the work therein meets the requirements for the following exemption, as specified in the Bylaw and the regulations, no Notice of Intent is required:

Issued by the ACTON CONSERVATION COMMISSION

Signatures \_\_\_\_\_

<u>Peter Berry</u>	_____
<u>[Signature]</u>	_____
<u>J. Mantland</u>	_____
<u>Michael G.D.</u>	_____
_____	_____

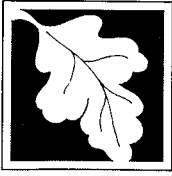
This Determination must be signed by a majority of the Acton Conservation Commission.

On this 16th day of June, 2009, before me personally appeared Andrew Magee, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Andrea H. Ristine  
Notary Public – Andrea H. Ristine

February 27, 2009  
My commission expires

This Determination does not relieve the applicant from complying with all other applicable federal, state or local statutes, bylaws or regulations. This Determination shall be valid for three years from the date of issuance.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. General Information**

From:

ACTON

Conservation Commission

To: Applicant

Rachel & Steven Kelley

Name

70 Newtown Road

Mailing Address

Acton

MA

01720

City/Town

State

Zip Code

Property Owner (if different from applicant):

same

Name

Mailing Address

City/Town

State

Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Site Plan

Title

Date

Design Plan May 27, 2004

Title

Date

Title

Date

2. Date Request Filed:

**B. Determination**

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Replace front steps, creat front walkway, adding four flower beds and extension of front steps to patio.

Project Location:

70 Newtown Road

Street Address

ACTON

City/Town

E-3

82

Assessors Map/Plat Number

Parcel/Lot Number



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**B. Determination (cont.)**

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

**Positive Determination**

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

- ☐ 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- ☐ 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

- ☐ 2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

- ☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
- ☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent.
- ☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

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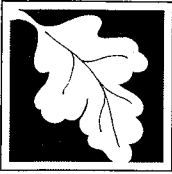
Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

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Name

Ordinance or Bylaw Citation



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Determination (cont.)**

- ☐ 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

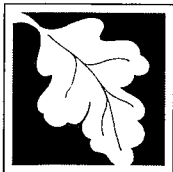
- ☐ Alternatives limited to the lot on which the project is located.
- ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

**Negative Determination**

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- ☐ 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☒ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

- ☐ 4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection  
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**B. Determination (cont.)**

- ☐ 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- ☐ 6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

**C. Authorization**

This Determination is issued to the applicant and delivered as follows:

- ☐ by hand delivery on ☒ by certified mail, return receipt requested on

Date

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see Appendix A) and the property owner (if different from the applicant). ☐☐ Signatures:

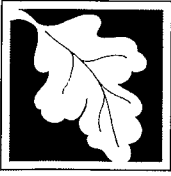
Peter Berry

[Signature]

J. Martland

Michael Ede

June 16, 2007



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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**D. Appeals**

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see Appendix A) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Appendix E: Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.